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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS-2013-0018]

RIN 0579-AD80

Importation of Mangoes From Jamaica Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations concerning the importation of fruits and vegetables to allow the importation of fresh mangoes from Jamaica into the continental United States. As a condition of entry, the mangoes would have to be produced in accordance with a systems approach employing a combination of mitigation measures for certain fruit flies, soft scale insects, and diseases and would have to be inspected prior to exportation from Jamaica and found free of these pests and diseases. The mangoes would have to be imported in commercial consignments only and would have to be treated to mitigate the risk of fruit flies. The mangoes would also have to be accompanied by a phytosanitary certificate. This action would allow the importation of mangoes from Jamaica while continuing to protect against the introduction of plant pests into the United States.

DATES: We will consider all comments that we receive on or before [Insert date 60 days after date of publication in the Federal Register].

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to  
<http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0018>.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2013-0018, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

Supporting documents and any comments we receive on this docket may be viewed at <http://www.regulations.gov/#!docketDetail;D=APHIS-2013-0018> or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Mr. Tony Román, Regulatory Policy Specialist, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737-1231; (301) 851-2242.

#### SUPPLEMENTARY INFORMATION:

##### Background

The regulations in "Subpart—Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-66, referred to below as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States.

The national plant protection organization (NPPO) of Jamaica has requested that the Animal and Plant Health Inspection Service (APHIS) amend the regulations to allow fresh mangoes from Jamaica to be imported into the continental United States.

In order to assess the risks associated with the importation of mangoes from Jamaica, we have prepared a pest risk assessment (PRA), titled “Importation of Mango Fruit, Mangifera indica, from Jamaica into the Continental United States” (March 2013). The PRA identified five pests of quarantine significance present in Jamaica that could be introduced into the continental United States through the importation of mangoes:

Fruit Flies:

- West Indian fruit fly (Anastrepha obliqua)
- Caribbean fruit fly (Anastrepha suspensa)

Scale:

- Moestus soft scale (Coccus moestus)

Fungus:

- Phomopsis mangiferae

Bacterium:

- Xanthomonas campestris pv. mangiferaeindicae

For pests rated high risk (A. obliqua and A. suspensa), specific phytosanitary measures beyond standard port-of-entry inspection are strongly recommended. For pests rated medium risk (C. moestus, P. mangiferae, and X. campestris pv. mangiferaeindicae), specific phytosanitary measures beyond standard port-of-entry inspection may be necessary. To recommend specific measures to mitigate the risk posed by the pests identified in the PRA, we prepared a risk management document (RMD). Copies of the PRA and RMD may be obtained from the person listed under FOR FURTHER INFORMATION CONTACT or viewed on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).

Based on the recommendations of the RMD, we are proposing to allow the importation of mangoes from Jamaica into the continental United States only if they are produced in accordance with a systems approach. The systems approach we are proposing would require that mangoes be imported under the conditions described below. These conditions would be added to the regulations in a new § 319.56-67.

#### General Requirements

Paragraph (a) of § 319.56-67 would set out general requirements for the NPPO of Jamaica and for growers and packers producing mangoes for export to the continental United States.

Paragraph (a)(1) would require the NPPO of Jamaica to provide an operational workplan to APHIS that details activities that the NPPO of Jamaica, subject to APHIS' approval of the workplan, will carry out to meet the requirements of proposed § 319.56-67. The implementation of a systems approach typically requires an operational workplan to be developed. An operational workplan is an agreement between APHIS' Plant Protection and Quarantine program, officials of the NPPO of a foreign government, and, when necessary, foreign commercial entities that specifies in detail the phytosanitary measures that will comply with our regulations governing the import or export of a specific commodity. Operational workplans apply only to the signatory parties and establish detailed procedures and guidance for the day-to-day operations of specific export programs. Workplans also establish how specific phytosanitary issues are dealt with in the exporting country and make clear who is responsible for dealing with those issues.

Paragraph (a)(2) would require mangoes to be grown at places of production that are registered with the NPPO of Jamaica and that meet the agreed upon specifications detailed in the

workplan. Registering places of production would allow APHIS and the NPPO of Jamaica to trace consignments of mangoes back to the orchard of origin if a pest or disease of concern is detected. If a pest or disease is detected at the port of entry in the United States, the consignment of mangoes would be prohibited entry into the United States and further shipments from the place of production where the mangoes were grown will be prohibited until an investigation is conducted and APHIS and the NPPO of Jamaica agree that the risk has been mitigated.

Paragraph (a)(3) would require the mangoes to be imported in commercial consignments only. Produce grown commercially is less likely to be infested with plant pests than noncommercial shipments. Noncommercial shipments are more prone to infestations because the commodity is often ripe to overripe, could be of a variety with unknown susceptibility to pests, and is often grown with little or no pest control. Commercial consignments, as defined in § 319.56-2, are consignments that an inspector identifies as having been imported for sale and distribution. Such identification is based on a variety of indicators, including, but not limited to: Quantity of produce, type of packaging, identification of grower or packinghouse on the packaging, and documents consigning the fruits or vegetables to a wholesaler or retailer.

#### Treatment

Paragraph (b) would require the mangoes to be treated for Anastrepha spp. fruit flies in accordance with 7 CFR part 305. The mangoes could be treated with a hot water immersion for fruit flies. Hot water immersion treatment T102-a has been used to treat mangoes for fruit flies since 1987. Many countries in Central and South America export mangoes to the United States using hot water immersion treatment, almost all those exporting countries have used T102-a. Hot water dip, although not an APHIS-approved method for mitigating the risk of scales, kills scales on the surface of mangoes. This treatment, in conjunction with other safeguards that

would be required by the regulations for mangoes from Jamaica, would reduce the likelihood that mangoes will introduce C. moestus and Anastrepha spp. fruit flies.

Additionally, the Plant Protection and Quarantine Treatment Manual, found online at [http://www.aphis.usda.gov/import\\_export/plants/manuals/ports/downloads/treatment.pdf](http://www.aphis.usda.gov/import_export/plants/manuals/ports/downloads/treatment.pdf), lists minimum absorbed irradiation doses for plant pests and classes of plant pests, and includes a 150-gray dose for fruit flies, including Anastrepha spp. Irradiation has been used successfully to treat fruits and vegetables imported from other countries as well as moving fruit interstate from Hawaii.

Within part 305, § 305.9 contains a number of other requirements for irradiation treatment, including monitoring by APHIS inspectors and safeguarding of the fruit. Section 305.9 also provides that the irradiation treatment could be conducted at an approved facility in Jamaica or in the United States. If irradiation is to be applied in the United States, each consignment of fruit would have to be inspected by a Jamaican inspector prior to departure and accompanied by a phytosanitary certificate issued by the NPPO of Jamaica.

### Packaging

Paragraph (c) would require that the mangoes be safeguarded from exposure to fruit flies from the time of treatment to export, including packaging that prevents access by fruit flies and other injurious insect pests. This safeguarding may include tarps, insect-proof boxes or containers, and double-door entrances to packinghouses or other facilities. The package containing the mangoes could not contain any other fruit, including mangoes not qualified for importation into the United States. Safeguarding movement of fruit from the field to the packinghouse, and subsequently to the place of export, is standard procedure for export programs in countries where fruit flies occur.

### Inspection for Scale Insects

Paragraph (d) would require that mangoes be inspected by the NPPO of Jamaica for C. moestus. C. moestus infestations produce spots and discoloration on the surface of the fruit, often at the stem end of the fruit. Therefore, inspection prior to export from Jamaica would effectively remove this pest of concern from the pathway.

### Plant Pathogens

Paragraph (e) would require that P. mangiferae and X. campestris pv. mangiferaeindicae, which we consider to be of medium risk of introduction and dissemination within the continental United States, be addressed in one of the following ways:

- The mangoes would be treated with a broad-spectrum pre- or post-harvest fungicidal application, or
- The mangoes would be inspected during preclearance activities and found free of P. mangiferae and X. campestris pv. mangiferaeindicae.

Pre- or post-harvest fungicidal applications have proven to be successful to mitigate fungal disease for mangoes imported from other countries. In addition, symptoms of P. mangiferae and X. campestris pv. mangiferaeindicae can be easily seen and detected in the field on mango leaves and fruit during pre-harvest inspection. X. campestris pv. mangiferaeindicae infection on mango fruit results in lesions that develop into water-soaked halos that become raised, blacken, and crack open. These conspicuous lesions usually produce gummy exudates and are discernible with the naked eye. Therefore, inspection prior to export from Jamaica would effectively remove these pathogens of concern from the pathway.

### Phytosanitary Certificate

Paragraph (f) would require each consignment of fruit to be accompanied by a phytosanitary certificate issued by the NPPO of Jamaica. For mangoes that were subject to treatment in Jamaica, the phytosanitary certificate would have to bear an additional declaration confirming that the mangoes were subjected to treatment in accordance with 7 CFR part 305 for Anastrepha spp. fruit flies and that the mangoes were inspected and found free of C. moestus and were either treated with a pre- or post-harvest fungicidal application or were inspected prior to export and found free of P. mangiferae and X. campestris pv. mangiferaeindicae. If the mangoes are to be treated for Anastrepha spp. fruit flies upon arrival in the United States, the additional declaration must state that the mangoes were inspected and found free of C. moestus and were either treated with pre- or post-harvest fungicidal application or they were inspected prior to export and found free of P. mangiferae and X. campestris pv. mangiferaeindicae.

Mangoes imported from Jamaica into the United States would also be subject to inspection at the U.S. port of entry.

### Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities. The analysis is summarized below. Copies of the full analysis are available by contacting the person listed under FOR FURTHER INFORMATION CONTACT or on the Regulations.gov Web site (see ADDRESSES above for instructions for accessing Regulations.gov).



The annual quantity that Jamaica expects to export to the United States, 261 metric tons, represents less than 0.08 percent of U.S. mango imports (349,692 metric tons in 2012, primarily from Mexico, Peru, Ecuador, Brazil, and Guatemala). While mangoes are grown in Florida and Hawaii, and in smaller quantities in California and Texas, U.S. annual production totals only about 3,000 metric tons. The additional mango imports from Jamaica would not cause a significant decrease in mango prices or otherwise substantially affect the market. U.S. importers may benefit marginally in having Jamaica as another source of fresh mangoes.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

#### Executive Order 12988

This proposed rule would allow mangoes to be imported into the continental United States from Jamaica. If this proposed rule is adopted, State and local laws and regulations regarding mangoes imported under this rule would be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

#### Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the information collection or recordkeeping requirements included in this proposed

rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS-2013-0018. Please send a copy of your comments to: (1) APHIS, using one of the methods described under ADDRESSES at the beginning of this document, and (2) Clearance Officer, OCIO, USDA, room 404-W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

This proposed rule would amend the fruits and vegetables regulations to allow the importation of mangoes from Jamaica into the continental United States. As a condition of entry, the mangoes would have to be produced under a systems approach employing a combination of mitigation measures for certain fruit flies, soft scale insects, and diseases and would have to be inspected prior to exportation from Jamaica and found free of these pests and diseases. The mangoes would have to be imported in commercial consignments only and would have to be treated to mitigate the risk of these pests and diseases. The mangoes would also have to be accompanied by a phytosanitary certificate with an additional declaration confirming that the specified conditions for importation have been met. Implementing this rulemaking would require an operational workplan, registration of places of production, and the completion of phytosanitary certificates.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection and recordkeeping requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond (such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology; e.g., permitting electronic submission of responses).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 1.581 hours per response.

Respondents: NPPO of Jamaica, mango producers in Jamaica, and U.S. importers.

Estimated annual number of respondents: 2

Estimated annual number of responses per respondent: 37

Estimated annual number of responses: 74

Estimated total annual burden on respondents: 117 hours. (Due to averaging, the total annual burden hours may not equal the product of the annual number of responses multiplied by the reporting burden per response.)

Copies of this information collection can be obtained from Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

## E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Mrs. Celeste Sickles, APHIS' Information Collection Coordinator, at (301) 851-2908.

## List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

## PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701-7772 and 7781-7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

2. Section 319.56-67 is added to read as follows:

§ 319.56-67 Mangoes from Jamaica.

Mangoes (Mangifera indica) may be imported into the continental United States from Jamaica only under the following conditions:

(a) General requirements. (1) The national plant protection organization (NPPO) of Jamaica must provide an operational workplan to APHIS that details the activities that the NPPO of Jamaica, subject to APHIS' approval of the workplan, will carry out to meet the requirements of this section.

(2) The mangoes must be grown at places of production that are registered with the NPPO of Jamaica and that meet the specifications detailed in the workplan. If a pest or disease is detected at the port of entry in the United States, the consignment of mangoes would be prohibited entry into the United States and further shipments from the place of production where the mangoes were grown will be prohibited until an investigation is conducted and APHIS and the NPPO of Jamaica agree that the risk has been mitigated.

(3) The mangoes may be imported in commercial consignments only.

(b) Treatment. The mangoes must be treated for Anastrepha spp. fruit flies in accordance with part 305 of this chapter.

(c) Packaging. The mangoes must be safeguarded from exposure to fruit flies from the time of treatment to export, including packaging that prevents access by fruit flies and other injurious insect pests. The package containing the mangoes could not contain any other fruit, including mangoes not qualified for importation into the United States.

(d) Inspection. The mangoes must be inspected by the NPPO of Jamaica and found free of Coccus moestus.

(e) Plant pathogens. The risks presented by Phomopsis mangiferae and Xanthomonas campestris pv. mangiferaeindicae must be addressed in one of the following ways:

(1) The mangoes are treated with a broad-spectrum pre- or post-harvest fungicidal application; or

(2) The mangoes are inspected prior to export from Jamaica and found free of P. mangiferae and X. campestris pv. mangiferaeindicae.

(f) Phytosanitary certificate. Each consignment of fruit must be inspected by the NPPO of Jamaica and accompanied by a phytosanitary certificate issued by the NPPO of Jamaica with one of the following additional declarations.

(1) For mangoes that were subject to treatment for Anastrepha spp. fruit flies in Jamaica, the additional declaration must state that the mangoes were subjected to treatment in accordance with 7 CFR part 305 for Anastrepha spp. fruit flies; that the mangoes were inspected and found free of C. moestus; and that the mangoes were either treated with a pre- or post-harvest fungicidal application or they were inspected prior to export and found free of P. mangiferae and X. campestris pv. mangiferaeindicae.

(2) If the mangoes are to be treated for Anastrepha spp. fruit flies upon arrival in the United States, the additional declaration must state that the mangoes were inspected and found free of C. moestus and were either treated with a pre- or post-harvest fungicidal application or inspected prior to export and found free of P. mangiferae and X. campestris pv. mangiferaeindicae.

Done in Washington, DC, this 9<sup>th</sup> day of April 2014.

Kevin Shea,

Administrator, Animal and Plant Health Inspection Service.

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